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SEP 11 2006

**OFFICE OF PETITIONS**

In re Application of :  
Nomura : DECISION ON PETITION  
Application No. 10/530,122 :  
Received: April 1, 2005 :  
Docket No.: 63227(72039) :

This is a decision on the petition under 37 CFR 1.181, filed July 19, 2006.

This application was held abandoned September 1, 2005 for failure to timely submit a proper reply to the communication mailed August 31, 2005. Notice of Abandonment was mailed July 13, 2006.

The petition is hereby **GRANTED**.

Petitioner asserts non-receipt of the communication mailed August 31, 2005.

In the absence of any irregularity in the mailing of the communication, there is a strong presumption that the communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Office communication was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to PCT for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

A handwritten signature in black ink, appearing to read 'Alesia M. Brown', is written over the printed name.

Alesia M. Brown  
Petitions Attorney  
Office of Petitions